

DECEMBER 11, 2007

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SAMUEL A. SCHWARTZ,

Plaintiff,

v.

No.

ABN AMRO MORTGAGE GROUP, INC.
and CITIMORTGAGE, INC.,

Defendants.

07 C 6963

JUDGE BUCKLO
MAGISTRATE JUDGE COX

NOTICE OF REMOVAL

Defendants ABN AMRO Mortgage Group, Inc. ("AAMG") and Citimortgage, Inc. ("Citi") hereby remove this action from the Circuit Court of Cook County, Illinois, to the United States District Court for the Northern District of Illinois. In support hereof, AAMG and Citi respectfully state:

1. On November 16, 2007, Plaintiff Samuel A. Schwartz ("Schwartz") commenced this action by filing a Complaint in the Circuit Court of Cook County, under the same title as above and Case No. CH 33681. In accordance with 28 U.S.C. § 1446(a), a copy of the Complaint, and all process and pleadings served on AAMG and Citi in this case in the state court are attached hereto as Exhibit A.

2. AAMG and Citi were served with Summons and a copy of the Complaint on or before November 26, 2007. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b).

3. This is a civil action over which this Court has jurisdiction pursuant to 28 U.S.C. § 1331 and is an action that AAMG and Citi may remove pursuant to 28 U.S.C. § 1441. Plaintiff alleges that AAMG and Citi violated the Illinois Consumer Fraud and Deceptive Business

Practices Act (“ICFA”), 815 ILCS §§ 505/1 *et seq.*, and further alleges claims for quasi-contract and unjust enrichment. The sole basis for Plaintiff’s state law claims are alleged violations of federal laws, specifically the Truth in Lending Act (“TILA”), 15 U.S.C. § 1601 *et seq.*, and the Real Estate Settlement Procedures Act (“RESPA”), 12 U.S.C. § 2601 *et seq.* See Ex. A at ¶¶ 27, 29, 38 (alleging violations of RESPA and TILA as basis for state law claims).

4. Because Plaintiff’s state law claims necessarily depend on the resolution of substantial questions of federal law, the action “arises under” federal law and removal is proper. *Mid America Title Co. v. Chicago Title Ins.*, No. 88-C-5864, 1988 WL 130010, *1 (N.D. Ill. Nov. 22, 1988)¹ (“[T]he plaintiffs have relied upon the federal violations to establish the state law violations.”). Plaintiffs in *Mid America* alleged, as here, a RESPA violation as the basis for an alleged violation of the ICFA. *Id.* (holding that removal of plaintiffs’ complaint to federal court was proper because the alleged RESPA violations were necessary elements of plaintiff’s state law claims); *see also Burda v. M. Ecker Co.*, 954 F.2d 434, 438 (7th Cir. 1992) (upholding removal of plaintiff’s state law claims because determination of federal questions were essential to right to recovery).

5. The United States District Court for the Northern District of Illinois, Eastern Division, is the District Court of the United States embracing Cook County, Illinois. *See* 28 U.S.C. § 93(a)(1).

6. The time provided under state law for AAMG and Citi to answer or otherwise plead to the Complaint, filed in the Circuit Court of Cook County on November 16, 2007, has not expired.

¹ A true and correct copy of this unpublished opinion is attached hereto as Exhibit B.

7. By filing this Notice of Removal, AAMG and Citi do not waive any defenses which may be available to them, specifically including, but not limited to, their right to contest personal jurisdiction, the sufficiency of service of process, and whether venue is proper in this Court or in the court from which this action was removed.

WHEREFORE, ABN AMRO Mortgage Group, Inc. and Citimortgage, Inc. hereby remove this action from the Circuit Court of Cook County, Illinois, to the United States District Court for the Northern District of Illinois.

Respectfully submitted,

ABN AMRO MORTGAGE GROUP, INC.
AND CITIMORTGAGE, INC.

By: s/Jeffery M. Heftman

One of Their Attorneys

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Dated: December 11, 2007

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing **Notice of Removal** was served on:

Samuel A. Schwartz, Esq.
3960 Howard Hughes Parkway
Suite 500
Las Vegas, Nevada 89169

via electronic transmission and by depositing the same in the U.S. mail, first-class postage prepaid, at 222 North LaSalle Street, Chicago, Illinois 60601-1003 by 5:00 p.m. on December 11, 2007.

s/ Jeffery M. Heftman
Jeffery M. Heftman